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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING: QUESTION OF HUMAN RIGHTS IN CYPRUS

Letter dated 30 January 1992 from the Permanent Representative of the Republic of Cyprus to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I have the honour to refer to a note verbale dated 22 July 1991, addressed to the Secretariat of the Commission on Human Rights by the Permanent Mission of Turkey to the United Nations Office at Geneva. At the request of the latter this note verbale, together with an "information note" prepared by the so-called "authorities of the Turkish Republic of Northern Cyprus", was circulated as a document of the forty-eighth session of the Commission of Human Rights under agenda item 12 (a) (E/CN.4/1992/3).

I draw your attention to the disregard by the Republic of Turkey of Security Council resolution 541 (1983) and 550 (1984), most recently reaffirmed by Security Council resolution 716 of 11 October 1991. The Security Council has condemned as illegal the purported secession of that part of Cyprus occupied by the Republic of Turkey and Turkey's subsequent recognition of the secessionist entity. Reiterating these earlier resolutions, Security Council resolutions 649 (1990) and 716 (1991), the former of which the Republic of Turkey claims unreservedly to endorse, reaffirm the sovereignty and territorial integrity of the Republic of Cyprus and the exclusion of any form of partition or secession. Furthermore, resolution 716 (1991) reaffirms the Security Council's position that the solution to the Cyprus problem is based on one State of Cyprus.

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It is notable that resolutions 649 (1990) and 716 (1991), which were endorsements of reports by the Secretary-General (S/21183 of 8 March 1990 and S/23121 of 8 October 1991), restate the Security Council's position on the right of self-determination in relation to Cyprus. The resolutions make it clear that it is unacceptable to put forward the concept that the two communities, who comprise the one State of Cyprus, are two distinct "peoples", each entitled to separate self-determination, or to introduce the concept that each side possesses and retains sovereignty including a right to secession. Accordingly, the deliberate insertion in the document circulated by Turkey of terms like "the Turkish Cypriot people" is an attempt to bypass United Nations Security Council declarations about the scope of the right of self-determination in relation to Cyprus. It should, as the Secretary-General has pointed out (in his reports of 12 July 1990 and 8 October 1991, S/21393 and S/23121 respectively) be remembered that the communities, in two high-level Agreements, as well as all parties including the Republic of Turkey, have agreed to negotiate within a framework excluding self-determination, "sovereignty" held by the communities and rights of secession. That framework has been established ever since General Assembly resolution 3212 (XXIX) of 1 November 1974, which was followed by the Secretary-General's new mission of good offices, requested by Security Council resolution 367 of 12 March 1975. If any party is "running away" (para. 26 of the circulated document) from Security Council resolutions and negotiations to solve the Cyprus problem, it has been the Republic of Turkey, whose Foreign Minister on 21 October 1991 addressed a letter which implied that it declined to contribute further to a solution and attacking the Secretary-General for unfairness and partiality (S/23156). The Republic of Cyprus accepts all Security Council resolutions and has confidence in the good offices of the Secretary-General.

The catalogue of allegations in the documents circulated by the Republic of Turkey has several purposes. First, it is designed to divert international scrutiny away from Turkey's violations of human rights in the Republic of Cyprus - violations repeatedly found by the European Commission on Human Rights in reports in 1976 and 1983 and violations which continue so long as refugees are restrained from returning to their homes. Because the Committee of Ministers of the Council of Europe continues to examine the Commission's report, its contents may not be made public except to say that the Commission found Turkey responsible. A serious complaint against Turkey was that it had failed to account for the fate of persons last seen alive in Turkish custody and the resultant uncertainty had caused severe suffering to their families, who were entitled to be informed of the situation of their relatives. This is at the heart of the continuing problem of the missing persons, and not the distorted picture presented (paras. 38 to 40 of the circulated document) giving false statistics, deliberately mixing up events in the coup preceding Turkey's first 1974 invasion and grossly exaggerating the numbers of Turkish Cypriots killed or presumed dead in the tragic intercommunal disorders between late 1963 and 1967, while being silent about the similar contemporary fate of a large number of Greek Cypriots. When published, the report of the European Commission on Human Rights will reveal the truth about the missing persons and continuing violations of the right of Greek Cypriots to return to their homes, inter alia, in the town of Varosha, which, despite calls for the return of refugees from 1974 to the present day, continues to be denied them.

It is necessary here to emphasize that there has never been a "population exchange agreement". Nor did the humanitarian arrangements agreed to in the presence of the Secretary-General in Vienna in August 1975 "complete and formalize the regrouping of the two peoples in their respective zones of the island" (para. 29 of the document circulated by Turkey). The right of all Greek Cypriot refugees to return to their homes has never been compromised. All that was agreed was to permit Turkish Cypriots who wished to move to the occupied area to do so, at the same time obtaining a Turkish Cypriot promise (not fulfilled) to allow full access of UNFICYP to enclaved Greek Cypriots and to permit provision of educational and medical facilities for them. It was also agreed that some 800 recently expelled Greek Cypriots could return to rejoin their families. The refugee question as a whole remained awaiting resolution and continued to be negotiated at subsequent meetings. Nor was any "formula" on a "population exchange agreement" formally (or informally) accepted in the 1977 high-level Agreement (as alleged in para. 29). Instead, it was stipulated that

> "principles like freedom of settlement, the right of property and other specific matters [the right of return] are open for discussion taking into consideration the fundamental basis of a bicommunal federal system and certain practical difficulties which may arise for the Turkish Cypriot community".

The May 1979 high-level Agreement made it clear that

> "There should be respect for human rights and fundamental freedoms of all citizens of the Republic" (point 3).

It should be added that return of the refugees in safety has been called for repeatedly in United Nations resolutions, with Security Council resolution 716 (1991) reaffirming all previous resolutions. Similar calls have been made by Council of Europe bodies concerned with the rights of displaced persons.

Second, the Turkish document seeks to deflect attention away from Turkey's continued military occupation of 36.4 per cent of the Republic of Cyprus, followed by her denial of individual rights to Turkish Cypriots - this last having been substantiated by the European Commission as recently as 8 October 1991, when the Commission, in Ahmet Cavit An and others v. Cyprus, exonerated the Republic of Cyprus from responsibility and found that permission for Turkish Cypriots to visit the free areas of the Republic was only occasionally and then arbitrarily granted by Turkey's military authorities stationed in Cyprus, who control the cease-fire line, sealing off the occupied area and regulating entry and exit.

Third, the circulated document (in paras. 30-36) seeks to obscure the issue of large-scale demographic manipulation by the Republic of Turkey, which has authorized and encouraged settlement by about 80,000 settlers from the Turkish mainland. The settlers are not merely "labourers" or migrant workers, but are persons planted in the occupied area to alter population ratios in the island and to ensure Turkey's control of the occupied part of Cyprus. This demographic manipulation is currently under investigation by the Council of Europe's Parliamentary Assembly Immigration, Refugee and Demography Committee.

In order to confuse the issue and to assert that statistics can be misleading, extraordinary sleight of hand is employed in the circulated document in quoting different statistics out of context and without their appropriate explanations (for example, annually varying population growth rates) to assert that since "the Greek Cypriots can distort population figures in accordance with their own need [it] is ... incomprehensible why they should make all this fuss about the population" of the occupied area. The tragic situation of Lebanese refugees is even exploited. At the height of the troubles, 30,000 were staying in Cyprus, as is shown by the Council of Europe's Parliamentary Assembly Report on the situation of the Lebanese civilian population fleeing the country, document 6155, 5 January 1990, paragraph 20. However, only 43 were naturalized, most being married to Cypriots. Only 2 per cent of Lebanese who arrive in Cyprus remain for periods over three months (para. 21). Such callous distortion of a grave humanitarian problem is unforgiveable.

The reality is that settlers and the Turkish army now outnumber the Turkish Cypriots and that the leadership of the Turkish Cypriot community refuses to publish the results of a survey conducted more than a year ago, despite calls for its publication by Turkish Cypriot opposition politicians, who claim that the nature of Turkish Cypriot society is being altered and that their rights are being violated by this large-scale settlement.

Fourth, the document (in paras. 41-42) seeks to cover up the Turkish destruction of the cultural heritage of Cyprus, which has been effected both by deliberate action and by neglect in restraining criminal activity of those who steal cultural artefacts and antiquities or violate sacred property. Quotations out of context and dealing with a quite different issue is the technique employed. The allegation by the Republic of Cyprus is not that Turkish Cypriots have failed to do expensive restoration work; it is that they countenance and even encourage destruction. Furthermore, damage done in intercommunal violence in 1964 is dredged up to justify a consistent Turkish policy of eliminating the Greek tradition, a policy applied in the occupied area from 1974 onwards. (It is scarcely worth mentioning that regular and large-scale destruction of Greek Cypriot property in intercommunal violence was initiated by Turks early in 1956 and continued to 1958 without there being any retaliation. Similarly, Greek Orthodox, Armenian or Assyrian churches have been subjected to destruction over lengthy periods in Turkey where the cultural inheritance of these different traditions has not been respected).

Fifth, the depiction (in paras. 1-25 of the circulated document) of alleged "hostile activities and atrocities against the Turkish Cypriot people of Cyprus" in the period prior to Turkey's mid-1974 invasions is an attempt to concoct a justification for Turkey's aggression and her violations of human rights at a time when all intercommunal violence had ceased for seven years during which there had been intercommunal negotiations on amendment of the Constitution.

It is not practical to deal here with the multiplicity of false allegations presented in the Turkish documents. Such claims have been fully and repeatedly refuted before international human rights and political bodies. As the European Commission on Human Rights pointed out in its 10 July 1976 report, any claims should be raised by way of an application to the Commission. Yet Turkey has never put her allegations to the proof,

instead circulating scandalous, abusive and untestable materials prepared by secessionist Turkish Cypriot politicians who, by reason of Turkey's adoption of their contentions, are always heard by international organs. A reliable indicator of the true position is provided by the decisions of the European Commission on Human Rights, the United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities and the Commission on Human Rights itself, quite apart from numerous decisions by United Nations and European political organs. All of these name only Turkey as the entity responsible for violations of human rights in Cyprus.

Were it not so tragic, it would be laughable to read the claim (in para. 1) that "the Greek Cypriot side is continuing its military build-up". The reality is that Turkey has an army of occupation of 35,000 men in Cyprus and has created facilities to enable rapid landing and deployment of massive further forces from the Turkish mainland (facts set out in a report by the United Kingdom's Foreign Affairs Committee: 3rd Report, 1986-87, H.C. 23, paragraph 59. Indeed, the United Nations Secretary-General and Powers allied to Turkey have in recent years intervened to request that there be no further build-up of Turkish forces.

Again, the claim that "the Greek Cypriot side is at present ... pursuing a policy of hostility against the Turkish Cypriot people", trampling "upon every human right of the Turkish Cypriot people" and concentrating upon isolating them from the rest of the world is false. The real problem has arisen out of events in late December 1963, followed by withdrawal, under the direction of the Foreign Ministry of Turkey, of the Turkish Cypriot political leadership from the institutions established by the 1960 Constitution of the Republic of Cyprus. Those leaders immediately established their own separatist institutions, early in January 1964, setting up postal, hospital, radio and other governmental "public services" under a "General Committee". These institutions were, again under Turkish Foreign Ministry direction, restructured in December 1967 as the "Provisional Cyprus Turkish Administration", a move condemned by the Secretary-General (S/8323). Those institutions in turn became the "Autonomous Cyprus Turkish Administration" soon after Turkey's invasion and they proclaimed a secessionist "Turkish Federated State of Cyprus" on 13 February 1975. Turkish Cypriots have relied on those secessionist institutions in lieu of the institutions of the 1960 Constitution and have therefore been unable to enjoy the 1960 Constitution's benefits. After abandoning the 1960 Constitution institutions, they blew hot and cold on these, generally refusing to attend and participate or to apply the laws of the Republic in the enclaves they controlled. (Incidentally, despite the Turkish policy of establishing enclaves, 79,000 Turkish Cypriots - 65 per cent of their number - continued to live in areas controlled by the Government, including ethnically mixed villages.) The Turkish Cypriot leadership sought only to return for tactical or propaganda purposes and then on unacceptable conditions. For example, in May 1964 they sought participation in the Council of Ministers upon obviously impossible conditions, having earlier conspired with Turkey that it would immediately invade Cyprus when President Makarios refused them participation on the basis they had suggested. Turkey was only dissuaded from invading by President Johnson's 5 June 1964 letter threatening American intervention. (See E. Weintal and C. Bartlett, Facing the Brink. An Intimate Study of Crisis Diplomacy, Scribners, 1967, p. 22). At a time of

rebellion, it was unrealistic for rebels to expect to be reinstated as if nothing had happened, especially when their "motherland" continued to threaten Cyprus and the Turkish Air Force had even bombed it in August 1964.

Turkish Cypriot separatist institutions have not enjoyed the benefits of international personality, because such secessionist and unrecognized non-State institutions do not have the attributes which international law and the international community accord to independent sovereign States and their Governments. The Government of the Republic has repeatedly requested the Turkish Cypriots to return to legality, particularly since 1974, and has suggested that in the interim they take advantage of the benefits of the 1960 Constitution while negotiating a new federal constitution for the State of Cyprus. The Government of the Republic has emphasized, particularly in its 1980 proposals on confidence-building measures, that individual Turkish Cypriots can enjoy the benefits of their Cypriot citizenship: inter alia, they can obtain passports, which many privately do; they can visit the free areas; and they can trade under the aegis of the authorities of the Republic. More particularly, the Republic of Cyprus represents the whole of Cyprus as regards trade with the European Economic Community and agreements with the Community specify that the benefits of the trade and financial arrangements should be for the whole population of the island. The Turkish Cypriots benefit from these trade agreements. The Government of the Republic has also suggested mechanisms for Turkish Cypriot participation in postal services, obtaining international loans and credit, etc. Despite Turkey's invasion, the Republic has agreed that all international grant aid should be channelled so as to assist both communities, either in joint projects or in separate projects, with aid being given on a basis proportionate to the community population ratios. The Republic even supplies electricity to the occupied area without charging for it. In these circumstances, the Turkish Cypriot political leadership rejects all confidence-building measures and any use by Turkish Cypriots of their citizenship rights, thereby inflicting hardship on their own community.

Such hardship has been increased by integrating the occupied area into Turkey's inflationary economy by a series of "protocols". It is this policy which has hindered Turkish Cypriot trade and development. Tourism in refugee-owned hotels is naturally discouraged by the Government of the Republic. Were such hotels to be exploited, there would be no incentive - especially with the continuing presence of the Turkish army of occupation - for Turkey to permit refugees to reclaim their property or to reach a settlement. For these reasons there are restrictions on the travel of foreign nationals who seek to travel from the free area to the occupied area. It has to be clarified that, since October 1974, all ports of entry into the Republic of Cyprus situated in the occupied area have been declared as closed and prohibited points of entry. The Republic cannot facilitate the exploitation of property seized from its citizens by the Turkish army.

Sixth, the document attempts to show that "the Turkish Cypriot people" have been and are being denied their human rights, so that they are entitled to exercise the right to self-determination, even though the Turkish Cypriot community agreed to the 1960 Constitution and in 1975, 1977 and 1979 agreed to negotiate a new federal constitution for the Republic of Cyprus. However, such a Turkish Cypriot contention about community rights of self-determination,

whether formulated in express terms or indirectly in terms of joint "sovereignty" of the communities or even, as in the document, in terms of co-founder partnership status, received its most recent rejection in Security Council resolution 716 (1991).

The authors of the document adopted and circulated by the Republic of Turkey have no shame: the document as a whole is a tissue of false misrepresentations and misattributions. For example, it was the Turkish Vice-President, not President Makarios who, on 30 December 1963, after leaving his office to set up separate Turkish Cypriot institutions, proclaimed that the Cyprus Constitution was dead. The document contains many misquotations and quotations out of context, distorting the meaning (as will be apparent to anyone who checks the extracts given as against Mr. Glafkos Clerides' book Cyprus: My Deposition, vol. 3). Similarly, there are selective quotations from reports of the Secretary-General whereas the reports make it clear that Turkish Cypriots were self-segregated and kept in enclaves by the Turkish Cypriot leadership and Turkish army officers as a preliminary to partition. Another misrepresentation relates to how the United Nations became involved in Cyprus. It first became involved at the request of the Republic in December 1963 when Turkey sent its navy and air force to Cyprus. The Republic in January 1964 then asked U Thant to appoint a Personal Representative, Lieutenant General Prem Singh Gyani. Thereafter, the Republic's formal request for a peace-keeping force was pre-empted by the United Kingdom when, as a Guarantor Power, it was informed that the Republic of Cyprus was asking for a United Nations force because Turkey was again threatening invasion - as Turkey frequently did until it actually invaded in 1974.

The alleged "common knowledge" and "facts ... well known", which are claimed to support the Turkish Cypriot account of the Cyprus problem, consist of selective snippets, suggesting that the Cyprus question began in 1963. On the contrary, Turkish expansionist designs against Cyprus go back to the competing demands which came to the fore at the start of the Second World War. Turkey sought the return of Ottoman territories as the price for entry into the war, first on the side of the Western Powers and later of Nazi Germany. (See F.G. Weber, The Evasive Neutral, University of Missouri, 1979.) Turkey has at least been consistent about her demand for "security" and territorial claims. When the United Nations Mediator on Cyprus, Mr. Galo Plaza, reported in 1965, he stated that the Turkish Government had reaffirmed Turkey's insistence

> "that any settlement first must maintain the equilibrium of territorial interests in the eastern Mediterranean, and especially as between Turkey and Greece ... and secondly must ensure the security and well-being of the Turkish Cypriot community" (S/6253, Report by the United Nations Mediator on Cyprus to the Secretary-General, para. 110).

What is now essential to keep in mind is that by the beginning of 1975 (when negotiations commenced for a Cyprus federation, making use of a new mission of good offices by the Secretary-General) Turkey immediately created a puppet regime in the part of Cyprus it occupied - an area basically the same as that claimed in 1957. Turkey assisted the puppet regime to become the "Turkish Federated State of Kibris" on 13 February 1975. Subsequently, the 1977 and 1979 high-level Agreements, endorsed by all parties and the Security Council, stipulated that Cyprus was to become a bicommunal federal republic,

whose unity would be maintained and which was to be guaranteed against any forms of partition, secession or union with any other country. None the less, Turkey again assisted in the establishment of "the Turkish Republic of Northern Cyprus" on 18 November 1983. It followed that action by defiance of Security Council resolution 541 (1983) and exchanged "ambassadors" with the secessionist entity in May 1984. Turkey has also maintained the secession by virtue of the continued presence of the Turkish army and by massive economic aid.

In contrast, it needs saying that, contrary to the impression sought to be conveyed by paragraphs 17, 45 and 46 of the document, "minority status" has not since 1975 been an issue raised by the Greek Cypriot side. Before 1975 the Greek Cypriot leadership had contended that a normal democracy, with extensive minority safeguards for the 18.1 per cent of the population who were Turkish Cypriot, was more appropriate than an inflexible constitutional arrangement, which encouraged one section to thwart the wishes of the great majority of the population, even on day-to-day taxation matters. To suggest that minority status for Turkish Cypriots is still the aim of the Greek Cypriot community is a deliberate falsehood. Indeed, the Secretary-General stated in his 12 July 1990 report (S/21393, at paras. 4 and 12) that the two sides accepted that their participation in the negotiating process was on an equal footing, with a solution needing to be decided by and acceptable to both parties. The bicommunal federation agreed to be established by the two sides was to have two territorial zones and was to be one in which the two communities would have political equality, manifested in a number of ways. These ways were summed up by the Secretary-General and endorsed by the Security Council (see resolution 716 (1991), para. 4, together with Secretary-General report S/21183 of 8 March 1990, annex I, para. 11). The Secretary-General stated:

> "While political equality does not mean equal numerical participation in all federal government branches and administration, it should be reflected inter alia in various ways: in the requirement that the federal constitution of the State of Cyprus be approved or amended with the concurrence of both communities; in the effective participation of both communities in all organs and decisions of the federal Government; in safeguards to ensure that the federal Government will not be empowered to adopt any measures against the interests of one community; and in the equality and identical powers and functions of the two federated States."

The Turkish Cypriot community and Turkey claim to welcome Security Council resolution 649 (1990) and in mid-1990 indicated acceptance of the Secretary-General's definition of "political equality of the communities", as well as his understandings about overall objectives of an agreement dealing with all the issues covering the Cyprus problem. It is sincerely to be hoped that they will now, instead of producing false historical accounts as pretexts for not restoring human rights, or introducing concepts designed to frustrate a solution, proceed to an overall political agreement which will ensure the human rights of all in Cyprus, whatever be their community.

(Signed) Vanias Markides
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